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fX
FOX BASIC CABLE, INC.
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JUN 16 1994

FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF SECRETARY

June 16, 1994

BY HAND DELIVERY

Mr. William Caton
Acting Secretary
Federal Communications Commission
1919 M Street, N.W.
Washington, DC 20554

Re: MM Docket Nos. 92-266, 93-215 ✓
CS Docket No. 94-28

Dear Mr. Caton:

Fox Basic Cable, Inc., ("Fox"), on behalf of our newly launched cable network, fX, submits this letter in support of Petitions for Reconsideration filed by Public Interest Petitioners, United Video, Eternal Word Television Network, the Commissioner of Baseball and Viacom International, Inc., and Comments filed by Ovation, Inc., PBS Horizons Cable Network and the Times Mirror Company. This letter is not intended to be exhaustive. Rather, our initial comments seek only to emphasize the need for prompt Commission action to create incentives for the addition of new programming services.

On June 1 of this year, fX was launched in a record 18 million cable homes. We are proud of our initial success and we are confident that fX's unique entertainment mix, which includes seven hours of live, original programming daily, will have strong appeal to a broad spectrum of television viewers. And, we are deeply grateful for the FCC's responsiveness in resolving certain immediate regulatory roadblocks, without which a successful fX launch would not have been

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possible. fX is a clear example of the diversity of programming the Commission intends to promote.

But, as proud as we are of the highly successfully launch of fX, the subscription and advertising revenues from 18 million cable homes are insufficient, over the long run, to support the original, high quality entertainment programming of a network like fX. And, while it is true that the fX launched occurred after the Commission adopted its "going-forward" rules, the vast majority of our 18 million launch subscribers were signed prior to the rules' adoption. Since the rules, the continued growth of fX has been stymied by confusion surrounding the rules; regulatory incentives which, while well-intended, are inadequate to encourage operators to add new, basic programming; strong, if unintended, regulatory disincentives for operators against whom complaints have not been filed to add services; and, perhaps most frustrating of all, a reluctance on the part of cable operators to make any changes whatsoever until the Commission adopts the widely-discussed, increased incentive package.

No quick and easy fixes exist. However, the extreme difficulties facing new program networks would be ameliorated by several proposed changes. We cannot stress strongly enough the importance of rapid Commission action. If the experience of fX is indicative, so long as the "going-forward" and "à la carte" rules are in flux, new programming ventures will suffer severely and, in some cases, may wither on the vine.

fX strongly supports more generous incentives for the addition of new services to basic and expanded basic tiers. The widely-mentioned flat-rate, 25 cent programming markup would be a positive signal to cable operators that the Commission did not intend to freeze existing basic tiers in place, thereby entrenching incumbent program networks while nascent networks are relegated to less well-penetrated à la carte tiers. Low-cost, niche services may be able to survive in thinly-subscribed à la carte tiers, but broad-based networks like fX need carriage on highly penetrated tiers to reach their programming potential. Any solution the Commission adopts must treat both broadly-based and niche networks in an equitable fashion.

For some operators, even a 25 cent markup may be inadequate to incent additions to basic. Therefore, flexible à la carte packaging rules are important to the development of new program networks and, ultimately, to the consumer. If the Commission adopts more-flexible à la carte packing rules allowing discounted package prices, the consumer will be served both because diverse new

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networks can be sustained and because the viewer will have a "packaged" option to buy more and pay less.

Broad-based cable networks, which are denied a berth in basic, need to be placed in discounted á la carte tiers which encourage high subscribership both for subscription fees and for advertising revenues. As a rule, television advertisers are seeking wide audiences. Therefore, networks reaching less than 40 million households can command only fractions of the advertising revenue per actual viewer that more widely distributed over-the-air and mature cable network can command. Yet, programming costs are fixed unless quality is sacrificed. As a result, because advertisers will foot less of the programming bill, tightly-drawn á la carte rules will only serve to shift more of the programming costs from advertisers to consumers. Nascent cable networks and the consumer will be benefited by á la carte rules which permit package discounts of up to 50%.

Likewise, the development of fledgling cable networks will be promoted if the Commission allows the movement of a reasonable number of existing basic cable services to á la carte tiers subject to the restrictions of existing affiliation agreements. The placement of new services in tiers with mature cable networks will give viewers exposure to programming they might not otherwise have tried. We, at fX, are confident that if viewers try us they will like us. But, placement in basic or with a mature cable service is essential to getting viewers to try us in the first instance.

Finally, we urge the Commission to consider the major blow which has been dealt to the Commission's stated goal of continued programming diversity by its decision to open up to challenge all of an operator's rate - rather than the rate increase alone - when rates are raised to offset programming additions in system where no complaints have been filed. Whatever the Commission's intentions, the result will be to freeze existing service offerings to the exclusion of new program networks.

In summary, to incent the continued development of new program services, we urge the Commission to act expeditiously to: increase incentives for additions to basic; to modify á la carte packaging and migration rules; and to re-

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examine its rules affecting additions to basic in systems where no complaint has been filed. Without such changes, the Commission's goal and the Cable Act's clear vision of continuing programming diversity will be thwarted.

Sincerely,

A handwritten signature in black ink that reads "Peggy Binzel". To the right of the signature, the initials "rcr" are written in a cursive style.

Peggy Binzel
Fox, Inc.